



Federal Communications Commission
Washington, D.C. 20554

August 24, 2015

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Sprint Corporation
12502 Sunrise Valley Drive
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DA 15-954

Re: Sprint Corporation Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Washington State (Region 43) Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region, WT Docket No. 15-156; FCC File Nos. 0006854547 and 0006854553

Dear Mr. Goldstein:

In this letter, we grant a waiver request by Sprint Corporation (Sprint) that will allow Sprint to deploy its 800 MHz wideband operations in certain portions of the Washington State National Public Safety Planning Advisory Committee (NPSPAC) Region before 800 MHz Band reconfiguration has been completed in that Region.¹ Granting the Waiver Request will permit LTE deployment in the greater Portland metropolitan area, providing Sprint's subscribers access to these valuable broadband wireless services while protecting the remaining public safety entities from harmful interference. We therefore find that granting the Waiver Request is in the public interest.

Section 90.209(b)(7) of the Commission's rules² permits Economic Area-based 800 MHz Specialized Mobile Radio (SMR) licensees, such as Sprint, to deploy wideband operations in the 817-821/862-866 MHz portion of the SMR spectrum band in NPSPAC regions where 800 MHz band reconfiguration is still continuing, and in the 821-824/866-869 MHz portion of the SMR band only in NPSPAC regions where 800 MHz band reconfiguration has been completed.³

Pursuant to this rule, Sprint is deploying a 1.25 MHz wide CDMA channel at 817-821/862-866 MHz throughout the country while rebanding is still underway.⁴ Sprint also is deploying a 5 x 5 MHz Long-Term Evolution (LTE) channel in the SMR band at 819-824/864-869 MHz, which comprises both the 817-821/862-866 MHz and 821-824/866-869 MHz portions of the SMR Bands, in NPSPAC regions where 800 MHz band reconfiguration has been completed.⁵ On June 25, 2015, Sprint filed the Waiver Request so that it may deploy

¹ Sprint Corporation Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Washington (Region 43) Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region, FCC File Nos. 0006854547 and 0006854553 (filed June 25, 2015) (collectively, Waiver Request). The Waiver Request covers Call Signs WPOH404 and WPOH410.

² 47 C.F.R. § 90.209(b)(7).

³ 47 C.F.R. § 90.209(b)(7). *See also* Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-based 800 MHz Specialized Mobile Radio Licensees, *Report and Order*, WT Docket 12-64, 27 FCC Red 6489, 6495-96 ¶ 12 (2012) (*800 MHz Wideband Order*). SMR licensees are authorized to operate in the 813.5-824/858.5-869 MHz portion of the 800 MHz band only in the Southeastern U.S. counties listed in section 90.614(c). *See* 47 C.F.R. § 90.209(b)(7); *800 MHz Wideband Order* at 6490 ¶ 1 n. 1. The NPSPAC Region where Sprint requests relief does not contain any of the listed counties.

⁴ *See* Waiver Request at 1.

⁵ *See id.*

800 MHz wideband operations at 821-824/866-869 MHz in certain portions of the Washington State NPSPAC Region prior to full completion of 800 MHz band reconfiguration in that Region.

Sprint notes that the 800 MHz band reconfiguration effort is complete in the Oregon NPSPAC Region and that Sprint has deployed both 800 MHz CDMA and 800 MHz LTE throughout Oregon, including in the City of Portland.⁶ Sprint further states, however, that the greater Portland metropolitan area is in both the State of Oregon and Washington State, and, while 800 MHz band reconfiguration is nearing completion in the Washington State NPSPAC Region, eleven licensees in the Seattle, Washington, area and in Eastern Washington State have not yet completed reconfiguration (collectively, Washington State NPSPAC Licensees, and each a Washington State NPSPAC Licensee).⁷ Sprint argues that it has identified areas in Washington State just north of the City of Portland where it could utilize the 866-869 MHz portion of the band in advance of full Washington State NPSPAC Region reconfiguration without increasing the risk of interference to the Washington State NPSPAC Licensees.⁸

Sprint explains that section 90.209(b)(7), however, prohibits broadband operations at 821-824/866-869 MHz anywhere in the Washington State NPSPAC Region until each of the Washington State NPSPAC Licensees has certified that it has completed its retune.⁹ Thus, Sprint argues, it cannot deploy broadband LTE in the old NPSPAC band in the areas of the Washington State NPSPAC Region that are fully cleared of public safety operations, including suburbs of Portland, Oregon, that are in Washington State.¹⁰

Sprint therefore requests a waiver of section 90.209(b)(7) so that it may launch LTE in portions of the four Washington State NPSPAC Region counties¹¹ in which 800 MHz rebanding is complete.¹² Sprint notes that each of these counties is located more than 70 miles away from the two closest Washington State NPSPAC Licensees still operating in the old NPSPAC band – the State of Washington Department of Transportation¹³ and the City of Puyallup – and more than 80 miles away from all other Washington State NPSPAC Licensees in the old NPSPAC band.¹⁴ Sprint proposes to maintain a distance of more than 70 miles between co-channel operations to provide an additional buffer of protection to the remaining public safety operations, which, Sprint argues, exceeds the co-channel separation requirements in section 90.621(b) of the Commission’s rules.¹⁵

⁶ *See id.*

⁷ *See id.* These licensees are: State of Washington Department of Transportation; State of Washington Department of Corrections; Eastside Public Safety Communications Agency; City of Seattle; City of Tacoma; City of Puyallup; King County; Skagit County; Valley Communications Center; Spokane Regional Emergency Communications Systems (STA only); and Island County Public Transportation Benefit Area. *Id.*, Attach. A. Sprint also states there are two licensees, Kitsap County and Snohomish County Emergency Radio System, that recently completed their retunes but have yet to remove their “old NPSPAC” frequencies from their FCC licenses. *Id.* at 1-2 n.2.

⁸ *See id.* at 2.

⁹ *See id.* at 3.

¹⁰ *See id.*

¹¹ These counties are: Clark, Cowlitz, Pacific, and Skamania. *Id.*, Attach. B.

¹² *See id.* at 3.

¹³ In the Waiver Request, Sprint calls this licensee simply “the State of Washington” and identifies it as holding Call Sign WPHK826. *See id.* In the Commission’s Universal Licensing System, Call Sign WPHK826 belongs to the State of Washington Department of Transportation. We therefore specify references to this licensee as “the State of Washington Department of Transportation.”

¹⁴ *See id.*

¹⁵ *See id.* 47 C.F.R. 90.621(b)(4) permits 800 MHz co-channel usage at sites as close as 55 miles depending on the technical parameters of the proposed facilities.

In addition, Sprint notes that it will, as required by the Commission's rules, provide the Washington State NPSPAC Licensees with 30-days advance notice of Sprint's deployment and planned initiation date of operations in the Washington State NPSPAC Region.¹⁶ Finally, Sprint states that if any public safety communications operator believes that its 800 MHz public safety radio system is experiencing CMRS-public safety interference at any time, a well-developed process exists to address interference via the industry-developed and maintained interference notification website at <http://www.publicsafety800mhzinterference.com>.¹⁷

Sprint states that it has discussed this matter with the State of Washington Department of Transportation and the City of Puyallup (the two closest public safety licensees), and, based on the co-channel distance Sprint proposes, each has indicated that it does not object to a grant of the waiver request.¹⁸ Sprint also states that it has sent State of Washington Department of Transportation, the City of Puyallup, and the nine other Washington State NPSPAC Licensees a copy of the waiver request and has contacted each Washington State NPSPAC Licensee to address any questions they may have.¹⁹

On July 1, 2015, the Commission issued a *Public Notice* seeking comment on the Waiver Request.²⁰ One Washington State NPSPAC Licensee – Spokane Regional Emergency Communications Systems (SRECS) – submitted comments in response to the *Public Notice* stating that it has no objection to the Waiver Request.²¹ SRECS explained that this is because the waiver area does not include Spokane county, and therefore the distance between Spokane County and the nearest proposed county is more than 150 miles with a large mountain range in between, and 2) SRECS has completed re-banding and is not operating in the 866-869 MHz band segment where Sprint seeks to deploy wideband operations.²² No other comments were filed.

On August 17, 2015, Sprint filed reply comments providing additional information related to the Waiver Request.²³ In the Sprint Reply Comments, Sprint states that four additional Washington State NPSPAC Licensees – the City of Seattle, Skagit County Transit, the State of Washington Department of Transportation, and the City of Puyallup – have sent Sprint emails indicating each has no objection to the Sprint Waiver Request; copies of these emails are attached to the Sprint Reply Comments.²⁴ Sprint also states that it has made numerous attempts to confirm with the remaining six Washington State NPSPAC Licensees that each also has

¹⁶ See Waiver Request at 3 n. 8. The 30-day notification is required by 47 C.F.R. § 90.209(b)(7). See also *800 MHz Wideband Order* at 6495 ¶ 14.

¹⁷ Waiver Request at 4 n. 14. Sprint explains that this website immediately notifies Sprint, as well as the other cellular carriers operating in a given area, to commence interference investigation and mitigation procedures in accordance with the Commission's mandated 24 hour interference response timelines and the requirements specified in sections 90.674 and 22.974 of the Commission's rules. *Id.*

¹⁸ See *id.* at 3.

¹⁹ See *id.*

²⁰ Wireless Telecommunications Bureau Seeks Comment on Sprint Waiver Request to Permit Wideband Operations in Portions of New Mexico and Texas NPSPAC Regions, *Public Notice*, WT Docket 15-156, 30 FCC Rcd 7072 (WTB MD 2015) (*Public Notice*).

²¹ See Comments of Spokane Regional Emergency Communications System, WT 15-156 (filed July 31, 2015) (SRECS Comments).

²² See *id.*

²³ Sprint Reply Comments to Sprint Request for Waiver to Permit 800 MHz Wideband Operations in Portions of Washington State Prior to Completion of 800 MHz Band Reconfiguration in the Entire NPSPAC Region, WT 15-156 (filed Aug. 17, 2015) (Sprint Reply Comments).

²⁴ Sprint Reply Comments at 2.

no objection to the Waiver Request but that, “despite Sprint’s best efforts,” they have not responded to Sprint.²⁵

Pursuant to section 1.925 of the Commission’s rules, waiver may be granted if the petitioner establishes that: (1) the underlying purpose of the rule would not be served or would be frustrated by application to the instant case, and the grant of the waiver would be in the public interest; or (2) where the petitioner establishes unique or unusual factual circumstances, that application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.²⁶

Based on the unusual factual circumstances described by Sprint, we find that a waiver is warranted in this case because application of the rule would inhibit LTE deployment in four of the Washington State NPSPAC Region counties where retuning has been completed – specifically those in the greater Portland metropolitan area. As Sprint argues, it would be inequitable and unduly burdensome to prohibit its subscribers’ access to these valuable broadband wireless services until each of the Washington State NPSPAC Licensees completes its retuning from the old NPSPAC band, particularly where Sprint will maintain such a significant geographic separation between its sites and those of the Washington State NPSPAC Region public safety entities. Such a constraint on broadband deployment and consumer choice is contrary to the public interest in light of measures (*i.e.* co-channel separation and advance notification) that will protect public safety entities from harmful interference.²⁷ We therefore waive section 90.209(b)(7) to permit Sprint to accelerate its broadband deployment in the four Washington State NPSPAC Region counties listed in Attachment A. This waiver is specifically conditioned on the following:

- (1) In the four (4) counties in the Washington State NPSPAC Region listed in Attachment A, Sprint must maintain a minimum 70-mile co-channel separation between Sprint's proposed operations at 821-824/866-869 MHz and the closest public safety site still operational in the old NPSPAC band.
- (2) Sprint must provide each public safety entity listed in Attachment C with 30-days advance notice of Sprint's deployment and planned initiation date of operations in the Washington State NPSPAC Region.
- (3) Sprint may not deploy LTE at 821-824/866-869 MHz in the thirty (30) counties listed in Attachment B until 800 MHz band reconfiguration has been completed in the entire Washington State NPSPAC Region.
- (4) If Sprint receives a report that station(s) operating in the areas covered by this waiver are causing harmful interference to a public safety licensee, it shall immediately suspend operation under this waiver of such station(s) except for test transmissions to identify and eliminate the interference. Sprint may resume operation under this waiver of such station(s) after the interference has been successfully mitigated.

Further, Sprint’s operations remain subject to the Commission’s rules regarding abatement of unacceptable interference as set forth in sections 90.672, 90.673, 90.674, and 90.675.²⁸

As conditioned, our grant will facilitate more rapid broadband availability in the greater Portland metropolitan area, while protecting ongoing public safety operations in the old NPSPAC band until they are

²⁵ *Id.*

²⁶ 47 C.F.R. § 1.925.

²⁷ See 800 MHz Wideband Order at 6495 ¶ 14.

²⁸ See 47 C.F.R. §§ 90.672, 90.673, 90.674 and 90.675.

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fully retuned. The conditions of this waiver will terminate when 800 MHz band reconfiguration has been completed in the entire Washington State NPSPAC Region 43.

Accordingly, IT IS ORDERED that, pursuant to Section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and sections 0.331 and 1.925 of the Commission's rules, 47 C.F.R. §§ 0.331, 1.925, the Waiver Request is GRANTED to the extent described above.

Sincerely,

Roger S. Noel
Chief, Mobility Division
Wireless Telecommunications Bureau
Federal Communications Commission

Attachment A – List of Counties Subject to Waiver Request

Clark
Cowlitz
Pacific
Skamania

Attachment B – List of Counties Excluded from Waiver Request

Adams	Lewis
Asotin	Lincoln
Benton	Mason
Chelan	Pend Oreille
Clallam	Pierce
Douglas	San Juan
Franklin	Skagit
Grant	Snohomish
Grays Harbor	Spokane
Island	Stevens
Jefferson	Thurston
King	Walla Walla
Kitsap	Whatcom
Kittitas	Whitman
Klickitat	Yakima

Attachment C – List of Remaining Licensees in the Washington State NPSPAC Region

State of Washington, Department of Transportation
State of Washington, Department of Corrections
Eastside Public Safety Communications Agency
City of Seattle
City of Tacoma
City of Puyallup
King County
Skagit County
Valley Communications Center
Island County Public Transportation Benefit Area
Spokane Regional Emergency Communications Systems (STA only)
State of Washington, Department of Transportation
State of Washington, Department of Corrections